

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	Case No. 2:18-cv-6823
Plaintiff,)	
)	
v.)	
)	
SANG NAHM,)	
)	
Defendant.)	
)	

COMPLAINT

The plaintiff, United States of America, with the authorization of a delegate of the Secretary of the Treasury and at the direction of a delegate of the Attorney General of the United States, brings this action to collect a civil penalty assessed pursuant to 31 U.S.C. § 5321(a)(5) against Sang Nahm for his failure to timely report his financial interest in, or his signatory or other authority over, a foreign bank account for calendar years 2009 and 2010, as required by 31 U.S.C. § 5314 and its implementing regulations, as well as associated penalties and interest. In support of this action, the United States alleges as follows:

Jurisdiction and Venue

1. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1345, and 1355(a).
2. Sang Nahm (“the Defendant”) resides in Dix Hills, New York, which is within the jurisdiction of this Court. Venue is appropriate under 28 U.S.C. § 1391(b)(1).

Defendant’s Failure to Timely Report Interest in Foreign Financial Accounts

3. Upon information and belief, the Defendant was born in the Republic of Korea (“Korea”) and remains a citizen of Korea. The Defendant earned a business degree in 1983 from Georgetown University in Washington, D.C. He returned to Korea where he worked as a

successful investment banker until 2002. From 2003 through 2005, the Defendant was the chief financial officer for Michaela Corp., located in New York.

4. During calendar years 2009 and 2010, the Defendant resided in, or was otherwise subject to the jurisdiction of, the United States. The Defendant continues to own a home in New York and upon information and belief travels between New York and Korea.

5. During calendar years 2009 and 2010, the Defendant had a financial interest in, or signatory or other authority over, a bank, securities, or other financial account at Shinhan Bank (“Shinhan Account”) in Korea.

6. During calendar year 2009, the balance of the Shinhan Account exceeded \$10,000.00.

7. During calendar year 2010, the balance of the Shinhan Account exceeded \$10,000.00.

8. During calendar years 2009 and 2010, the Defendant had a financial interest in, or signatory or other authority over, a bank, securities, or other financial account at Samsung Securities (“Samsung Account”) in Korea.

9. During calendar year 2009, the balance of the Samsung Account exceeded \$10,000.00.

10. During calendar year 2010, the balance of the Samsung Account exceeded \$10,000.00.

11. The Defendant was required to file Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (“FBAR”), by June 30, 2010, for the Shinhan and the Samsung accounts for calendar year 2009.

12. The Defendant was required to file Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (“FBAR”), by June 30, 2011, for the Shinhan and the Samsung accounts for calendar year 2010.

13. The Defendant failed to timely file an FBAR for calendar year 2009.

14. The Defendant failed to timely file an FBAR for calendar year 2010.

15. The Defendant lacked reasonable cause for his failure to timely file the FBAR for the calendar years 2009 and 2010. He has extensive education in financial matters and signed his self-prepared income tax returns for calendar years 2009 and 2010 without identifying his two Korean accounts.

16. The Defendant signed two extensions of the statute of limitations for assessment of a civil penalty for the calendar year 2009, extending the statute of limitations from June 30, 2016 to June 30, 2017, and then to June 30, 2018.

Assessment of the FBAR Penalty

17. On December 20, 2016, in accordance with 31 U.S.C. §5321(a)(5), a delegate of the Secretary of the Treasury assessed a civil penalty (“FBAR Penalty”) against the Defendant, in the total amount of \$34,813.00, for his non-willful failure to timely report to the IRS his financial interest and signature authority over the Shinhan and Samsung Accounts during 2009 and 2010, as follows:

	2009		2010	
Account	Balance	Penalty	Balance	Penalty
Samsung	\$416,465	\$10,000	\$1,080,306	\$10,000
Shinhan	\$48,132	\$4,813	\$435,350	\$10,000
Total	\$464,597	\$14,813	\$1,515,656	\$20,000

18. On or about December 20, 2016, a delegate of the Secretary of the Treasury sent notice of the assessment of the FBAR Penalty and a demand for payment to the Defendant.

19. The United States has collected approximately \$4,000.00 from Mr. Nahm.

20. The balance due on the FBAR Penalty assessed against the Defendant, along with statutory additions and interest, including a late-payment penalty, is \$32,253.19 as of January 31, 2018.

21. This civil action to collect the FBAR Penalties, and the associated penalties for late payment under 31 U.S.C. § 3717(e)(2), and interest, is timely under 31 U.S.C. §5321(b)(2) because it is filed within two years of December 20, 2016, the date that the FBAR Penalties were assessed.

WHEREFORE, Plaintiff United States of America requests that:

(a) The Court enter judgment in favor of Plaintiff United States of America and against Defendant, for the FBAR Penalties for the 2009 and 2010 calendar years, as well as the associated late-payment penalty and interest, in the amount of \$32,253.19 as of January 31, 2018, plus interest and statutory accruals from and after that date until the liability is paid in full; and,

[Remainder of this page intentionally left blank.]

(b) That the Court award the United States such further relief, including the costs of this action, as the Court deems just and proper.

Dated: November 30, 2018

Respectfully submitted,

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/s/Sarah T. Mayhew
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